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Letter dated 10 February 2004 from the representatives of Australia and Indonesia to the United Nations addressed to the Secretary-General

As you may be aware, Indonesia and Australia jointly hosted the Second Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, held in Bali on 29 and 30 April 2003, as a follow-up to the first regional conference on the same issues (see A/57/64).

Attached is a letter addressed to you from the Co-Chairs of the Conference, the Foreign Minister of Indonesia, Dr. Hassan Wirajuda, and the Foreign Minister of Australia, Mr. Alexander Downer (see annex I).

Also attached is a statement issued by the Co-Chairs, summarizing the key outcomes of the conference (see annex II). We request that the present letter and its annexes be circulated as a document of the fifty-eight session of the General Assembly under item 108.

(*Signed*) John **Dauth**
Permanent Representative of Australia to the United Nations

(*Signed*) Rezland Ishar **Jenie**
Chargé d'Affaires a.i. of the Republic of Indonesia
to the United Nations

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Annex I to the letter dated 10 February 2004 from the representatives of Australia and Indonesia to the United Nations addressed to the Secretary-General

The purpose of this letter is to inform you of the outcomes of the second Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, co-chaired by Indonesia and Australia in Bali from 28-30 April this year. We also seek to circulate the outcomes of the Conference as an official document at this year's session of the Untied Nations General Assembly.

As you are aware, people smuggling and trafficking in persons are global problems confronting many countries, eroding their capacity to protect their borders and inflicting heavy social and economic costs. The criminal networks behind these activities feed on the misfortune and aspirations of their clients, paying no regard to their human rights or safety. These same networks also often have links to narcotics, document fraud, money laundering arms smuggling and other transnational crimes. The Asia Pacific region continues to be a focal point for much of these activities, which, according to the International Organization for Migration, is estimated to be worth approximately US$10 billion annually.

In order to develop a comprehensive and cooperative regional approach to combating these problems, in February 2002 Indonesia and Australia co-chaired a Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime in Bali. Indonesia. At that Conference, Ministers agreed to establish two Ad Hoc Experts' Groups to coordinate concrete activities in areas such as regional information exchange, law enforcement cooperation and legislative development. The second Conference held this April provided an important opportunity for Ministers to review the progress made by the Ad Hoc Experts' Groups and to set strategic directions for future cooperation.

At this years' Conference twenty-eight Ministerial-level representatives from thirty-two countries in the Asia-Pacific region attended, reaffirming the region's common purpose and shared interest in combating the issues of people smuggling and trafficking. The High Commissioner for Refugees, Dr Ruud Lubbers, and officials from the International Organization for Migration also participated, reflecting UNHCR's and 10M's status as Associate Agencies to the Bali Process. Officials from the UNDP, the ILO and the UNODC attended as observers.

The Second Conference agreed to continue the two Ad Hoc Experts' Groups. These Experts' Groups have been very much occupied in the pursuit of their respective mandates. Ongoing work, which will be financed through an l0M funding appeal, will include workshops on public awareness and legislative development, as well as further work on root causes, returns, border control, information exchange, legal migration and refugee protection. Ministers have agreed to meet again within two to three years to review progress and provide further political-level guidance as necessary. In the meanwhile, senior officials will review the progress of the

Experts' Groups after one year. Following this review, "both Indonesia and Australia will prepare a Progress Report for Ministers of the participating countries.

As co-Chairs of the Conference, we issued on behalf of all participants a co-Chairs' Statement that reaffirm the commitment of the participant countries to seek solutions to the issues of people smuggling and trafficking in persons. We have attached to this letter a copy of the co-Chairs' Statement and seek to circulate the Statement as an official document of the United Nations under the relevant agenda item of the 58th Session of the General Assembly, as was the case with the corresponding Statement from the first Bali Regional Ministerial Conference. Based on the Provisional Agenda of the 58th Session, it would seem that Item 110 regarding Crime Prevention and Criminal Justice would be the most relevant agenda item under which to circulate the Statement.

Please be assured that the Governments of both Indonesia and Australia, in implementing the Regional Conference's outcomes and follow-up activities, are committed to working cooperatively with the United Nations, its specialised agencies as well as the international community to develop a coherent and effective approach to combating people smuggling and trafficking in persons. We will seek to ensure the region continues to build on and complement the existing international efforts that address these issues. We are committed to fostering greater dialogue between regions and relevant international organisations in the search for solutions.

(*Signed*) Dr N. Hassan **Wirajuda**
Minister of Foreign Affairs
Indonesia

(*Signed*) Alexander **Downer**
Minister for Foreign Affairs
Australia

Annex II to the letter dated 10 February 2004 from the representatives of Australia and Indonesia to the United Nations addressed to the Secretary-General

SECOND REGIONAL MINISTERIAL CONFERENCE ON PEOPLE SMUGGLING, TRAFFICKING IN PERSONS AND RELATED TRANSNATIONAL CRIME BALI, 29-30 APRIL 2003

CO-CHAIRS' STATEMENT

I. Introduction

1. We, the Foreign Ministers of Indonesia and Australia, had the honour to Co-Chair the Second Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime in Bali, Indonesia on 29-30 April 2003, attended by Afghanistan, Bangladesh, Brunei Darussalam, Cambodia, People's Republic of China, Democratic People's Republic of Korea, Fiji, France (New Caledonia), India, Iran (Islamic Republic of), Japan, Kiribati, Laos, Malaysia, Myanmar, Nepal, New Zealand, Pakistan, Palau, Papua New Guinea, Philippines, Republic of Korea, Samoa, Singapore, Solomon Islands, Sri Lanka, Thailand, Timor Leste, Turkey and Vietnam, as well as the United Nations High Commissioner for Refugees and representatives of the International Organisation for Migration.

2. Austria, Belgium, Canada, Finland, Netherlands, Norway, Romania, Russian Federation, South Africa, Spain, Sweden, Switzerland, the United States of America, Asian Development Bank (ADB), Association of South-East Asian Nations (ASEAN) Secretariat, Asia Pacific Consultations on Refugees, Displaced Persons and Migrants (APC), European Union (EU), International Centre for Migration Policy Development Secretariat (ICMPD), International Committee of the Red Cross (ICRC), International Federation for the Red Cross (IFRC), Inter-Governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia (IGC), International Labour Organization (ILO), United Nations Development Program (UNDP), United Nations Office on Drugs and Crime (UNODC) and World Bank attended as observers.

3. Ministers recalled the first Bali Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, held in Bali from 26-28 February 2002. Ministers reaffirmed the general principles on combating people smuggling, trafficking in persons and related transnational crime, as outlined in the Co-Chairs' Statement from the first Bali Regional Ministerial Conference.

4. Ministers affirmed that the root causes of people smuggling and trafficking in persons were numerous and multidimensional, involving economic, social and political aspects. They reaffirmed that poverty, economic disparities, labour market opportunities and conflict were major causes contributing to the global increase in people smuggling and trafficking in persons. Ministers recognised that these problems should be addressed cooperatively and comprehensively.

5. Ministers urged the international community to assist source countries to address the root causes of the illegal movement of people by providing emergency aid, development assistance, direct support programs for displaced persons and to address the plight of refugees. They agreed on the need for international support for

capacity building programs to achieve sustained economic growth and sustainable development and for assistance to countries with large refugee populations. Ministers emphasised that consideration should also be given to encouraging more opportunities for legal channels of migration including access to the international labour market.

6. Ministers acknowledged the human rights dimensions of the problems of people smuggling and trafficking in persons, particularly women and children.

7. Ministers acknowledged that illegal migrants potentially were both offenders of laws and victims. Ministers deplored the inhumane practices of smugglers and traffickers and their lack of regard for human suffering.

8. Ministers also emphasised that border security was a key component of national and global security. Ministers noted that all forms of transnational crime ruthlessly exploited border security and management systems, particularly those of countries that were in the process of developing national, regional and global capacities to combat people smuggling, trafficking in persons and related transnational crime. Ministers agreed that illegal migration threatened States' capacity to protect their borders and citizens and manage their regular migration programmes.

9. Ministers welcomed the activities of the two Ad Hoc Experts' Groups established at the first Bali Regional Ministerial Conference. The Bali Process has complemented and strengthened bilateral cooperation in the region. Regional cooperation was stronger and countries' capacity to combat people smuggling and trafficking in persons had improved as a consequence. These developments had been given substantial impetus as a result of the decisions taken by Ministers at the first Bali Regional Ministerial Conference.

II. Recent International and Regional Developments

10. Ministers called on the international community to provide humanitarian and reconstruction support and assistance to Iraq and to other post-conflict countries, particularly to those people in need of protection and humanitarian aid.

11. Ministers underlined the continued prevalence and complexity of illegal people movements worldwide, including in the Asia Pacific region. Ministers noted that these movements, including the movement of persons who have had international protection in a country other than their own, were creating significant political, economic, social and security challenges, and that journeys were undertaken without respect for either national sovereignty or borders.

12. Ministers emphasised the serious problem of trafficking in persons in the Asia Pacific region. They urged regional states to give increased attention to the problem. Ministers expressed concern that this criminal activity was performed without regard for international human rights principles or national legal frameworks. They highlighted the particular vulnerability of women and children.

13. Ministers discussed the links between people smuggling, trafficking in persons and other forms of transnational crime and were concerned that many of the smuggling and trafficking activities were being orchestrated by criminal networks that were also involved in the trafficking of narcotics, document fraud, money laundering, arms smuggling, terrorism and other transnational crimes.

14. Ministers recognised that regional cooperation in combating terrorism had benefited from the increased regional recognition of the importance of cooperation in combating transnational crimes such as people smuggling and trafficking in persons, and vice-versa. In this context, Ministers noted that the past twelve months had borne witness to shocking and indiscriminate acts of terrorism in the Asia Pacific region, including the Bali bombings of 12 October 2002. Ministers noted that these heinous acts had served only to galvanise regional and international cooperation in the fight against terrorism. An example of this cooperation was the outcomes from the Conference on Money Laundering and Terrorist Financing, co-chaired by Indonesia and Australia in Bali in December 2002.

15. Ministers expressed their deep sympathy to all those affected by the 2002 Bali bombing tragedy, in particular for the families of those perished and injured. They commended the firm measures taken to combat terrorism and the cooperation rendered by other countries in this regard.

16. Ministers noted that the desire to improve regional cooperation was also visible in the number of important conferences held recently in the region, including the 2nd ASEAN Senior Officials' Meeting on Transnational Crime, held in Kuala Lumpur, Malaysia on 17 May 2002 which had adopted a Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime, including trafficking in persons; the Pacific Islands Forum Meeting, held in Suva, Fiji, from 15-17 August 2002, at which members formulated the Nasonini Declaration on cooperation to address international terrorism and transnational crime; the 6th Meeting of ASEAN Director-Generals of Immigration and Heads of Consular Affairs Section in Foreign Ministries, in Bangkok in September 2002, where plans of action were developed for exchanges of tactical intelligence relating to migration and transnational crime; the 8th ASEAN Summit held in Phnom Penh, Cambodia, from 4-5 November 2002, at which the ASEAN Heads of State released a Joint Declaration on Terrorism, further addressing international terrorism and transnational crime; the 7th APC Plenary, held in Halong City, Vietnam on 21-22 November 2002; and the Asian Ministerial Consultations on Labour Migration, held in Colombo, Sri Lanka on 1-3 April 2003. These regional initiatives, plus the high level of attendance at this Conference, demonstrated the political will in the region to work together to combat transnational crimes.

17. Ministers noted further that over the past year several regional countries had signed and/or ratified the United Nations Convention Against Transnational Organised Crime and the Protocols thereto. Ministers encouraged those countries that had not yet done so also to consider the benefits of signing and ratifying the Convention and its Protocols.

III. Review of Progress from the first Regional Ministerial Conference

18. Ministers recalled the decision at the first Bali Regional Ministerial Conference to establish two Ad Hoc Experts' Groups, coordinated by the Governments of New Zealand and Thailand respectively. Ad Hoc Experts' Group I was established to promote regional and international cooperation, while the mandate of Ad Hoc Experts' Group II was to assist States to strengthen policy making, legislative arrangements and law enforcement practices.

19. In this context, Ministers welcomed the Report on the work of Ad Hoc Experts' Group I by the Minister of Foreign Affairs of New Zealand. He noted that countries had outlined the domestic structures they had thus far adopted to combat people smuggling and trafficking, and were now progressing cooperative activities such as

the establishment of a regional website to provide a forum for information exchange by member countries. Countries had identified measures they were taking to increase public awareness of these crimes and to discourage those considering illegal movement. Countries had participated in a workshop on best practices in asylum management. Countries had also received information to assist them to facilitate the dignified and humane return of unlawful migrants.

20. Ministers noted that Ad Hoc Experts' Group I held a review meeting in Colombo, Sri Lanka on 13-14 March 2003. The meeting reviewed the progress of the Group and developed a draft action plan for future work beyond the second Bali Regional Ministerial Conference, including information sharing; surveys on root causes of illegal migration, public awareness campaigns and capacity building; together with workshops on public awareness campaigns and best practices in asylum management; and encouraging the development of model agreements to cover the return of failed asylum seekers.

21. Ministers recalled that at the first Bali Regional Ministerial Conference they had agreed to work towards development of national legislation criminalising people smuggling and trafficking, and towards improving the cooperation of law enforcement agencies against illegal immigration networks, including by enhancing cooperation on border and visa systems. In this context, Ministers welcomed the Report on the work of Ad Hoc Experts' Group II by the Vice Minister for Foreign Affairs of Thailand. He noted that model legislations had been developed to assist governments to prepare and implement domestic laws criminalising people smuggling and trafficking, in addition to existing national legislation which countries had already identified. Countries had strengthened their national networks and cooperation between law enforcement agencies, and had instituted measures to improve identity verification and document examination procedures.

22. Ministers noted that Ad Hoc Experts' Group II held a review meeting in Tokyo, Japan on 10-11 March 2003. The meeting reviewed the progress of the Group and developed a draft action plan for future work beyond the second Bali Regional Ministerial Conference, including a workshop focusing on the legislative requirements for effective legal cooperation, training for operational officials on travel document fraud, further identification of capacity building needs in the area of law enforcement and border management; and the establishment of resource taskforces which could exchange appropriate intelligence, develop agreed standards for document examination and conduct a regional needs analysis.

23. In addition to progress achieved through the work of the two Ad Hoc Experts' Groups, Ministers noted that the Bali Process had provided impetus for related developments in regional countries to combat people smuggling, trafficking in persons and related transnational crime. Such developments included the implementation or development of national legislation, according to their respective national circumstances, to criminalise people smuggling and trafficking, the agreement of bilateral memoranda of understanding on information exchange, the strengthening of domestic law enforcement procedures, and the initiation of capacity building projects on border management.

Ministers underlined the following recommendations:

IV. Building on International and Regional Cooperation

24. Ministers stressed that people smuggling, trafficking in persons and other forms of illegal migration were global problems involving origin, transit and destination countries, which required comprehensive international

action. The Asia Pacific region had made an effective and important contribution to combating these criminal activities. Ministers encouraged all regional countries to intensify further their cooperation in combating people smuggling and trafficking in persons.

25. Ministers agreed that, subject to domestic laws and according to their respective national circumstances, they would work towards developing more effective information and intelligence sharing arrangements within the region, to obtain a more complete picture of smuggling and trafficking activities and other forms of illegal migration.

26. Ministers agreed on the need for strong national legislation criminalising these activities, strong law enforcement mechanisms and cooperation in the effective prosecution of such activities in accordance with domestic law.

27. Ministers further recognised that the experiences across the region over the past year have shown that regional and bilateral cooperation can achieve highly successful outcomes in combating people smuggling, trafficking in persons and other transnational crimes. It remained difficult for any individual State to address these issues effectively without the support of other States. As demonstrated by the active cooperation by a wide range of States within the Ad Hoc Experts' Groups, there is a strong shared regional interest and common purpose in continuing to cooperate to combat these criminal activities by building on existing regional agreements and efforts.

28. Ministers noted that, while people smuggling and trafficking in persons continue to pose serious problems for the region, a wide range of transnational crime, including, inter alia, trafficking in illicit drugs, terrorism, terrorist financing and money laundering also threaten regional stability and prosperity. Ministers recognised the value of all forms and levels of cooperation in combating these other crimes.

29. Ministers acknowledged the contributions of governments outside the Asia Pacific region and observer institutions. Ministers noted that inter-regional cooperation was an important and complementary strategy to regional and bilateral cooperation. In this regard, Ministers supported the efforts of the APC, IGC and Budapest Process to facilitate inter-regional dialogue.

Ministers recommend that:

A. States enhance their focus on tackling the root causes of illegal migration, and seek a comprehensive understanding of these issues and solutions that involve increased inter-regional cooperation.

B. States build on the successes of the past year, and use the voluntary cooperative mechanisms that have been developed to promote sustainable and effective measures to combat people smuggling, trafficking in persons and other transnational crimes that threaten States in the region.

C. States increase their efforts to combat people smuggling and trafficking in persons, including by enacting national legislation to criminalise these activities.

D. States welcome cooperation able to be provided by IOM and UNHCR, consistent with their respective mandates, to assist in the follow-up work arising from the Bali Process.

E. IOM continues in its efforts, in close cooperation with States, to promote the orderly flow of migration in the Asia Pacific region.

V. Ensuring Continuation of the Work Begun by the Bali Process

30. Ministers noted that this Conference provided an important opportunity to recognise the efforts made to increase cooperation (at all levels) in combating transnational crime, including people smuggling and trafficking in persons, and to give strategic direction to on-going efforts to increase regional cooperation. Ministers underscored that much still needed to be done and expressed their firm political commitment to build on the achievements of the Bali Process to combat the activities of networks engaged in people smuggling, trafficking in persons and related transnational crime. In this context, Ministers acknowledged the value and relevance of the work of the two Ad Hoc Experts' Groups, as outlined by the Foreign Minister of New Zealand and Vice Minister for Foreign Affairs of Thailand respectively.

31. Ministers agreed that cooperation should be based on an acknowledgment that each State had a sovereign right and legitimate interest to develop and implement its own laws to address people smuggling and trafficking in persons, reflecting the non-binding nature of the Co-Chairs' Statement.

32. Ministers noted that at the first Bali Regional Ministerial Conference it had been agreed that any further follow-up required after a 12 month period would be passed on to existing regional and international mechanisms. Existing bilateral, regional and international mechanisms would, where appropriate, be utilised in following up on the recommendations adopted.

Ministers agree that:

F. The Bali Process be continued.

G. States build on the momentum generated by the Bali Process, taking into account its voluntary and non-binding characteristics, by continuing the work of the two Ad Hoc Experts' Groups, which for the time being would continue to be coordinated by New Zealand and Thailand, and by carrying out, as appropriate, elements of the Action Plans developed by these Groups.

H. IOM be invited to create a funding appeal to support the Bali Process.

I. A Ministerial Conference be convened in approximately two to three years to review the progress made during this period, as well as to give necessary guidance on possible further follow-up.

J. Officials review the progress on the implementation, as appropriate, of the aforesaid Action Plans after approximately one year and subsequently report to Ministers. The Process will be coordinated by the Co-Chairs.

K. States also take the lead in incorporating the activities identified by the two Ad Hoc Experts' Groups into their respective regional and/or sub-regional organisations.

L. The work begun by the Bali Process be complemented by capacity building to enhance national capabilities to combat people smuggling, trafficking in persons and related transnational crime, and by the encouragement of more opportunities for legal migration.

VI. Conclusion

33. Ministers re-empnasised that people smuggling, trafficking in persons and other transnational crimes threatened regional security and prosperity. These crimes also preyed on the need and vulnerability of potential victims of people smugglers and traffickers. Comprehensive and cooperative solutions were required.

34. Ministers reaffirmed the high value they placed on the work of IOM and UNHCR and other relevant international organisations and fora, such as those represented in an observer capacity at this Conference.

35. Ministers, while acknowledging that this Conference had not been convened to deal directly with the issue of refugees, affirmed that nothing in this statement was intended to prejudice the legitimate rights of genuine refugees to seek and enjoy asylum in accordance with relevant UN Conventions and Protocols. Ministers noted that all countries, including origin, transit and destination, according to their national laws, could play a part in ensuring protection and in finding solutions for refugees, while providing for return in a dignified and humane manner for those found not to be refugees. Ministers recognised that improving the availability of solutions for refugees may reduce the pressure for onward secondary movement and thereby complement the international community's efforts comprehensively to combat people smuggling, trafficking in persons and related transnational crime.

36. Ministers acknowledged the contributions, which had been made by countries that hosted meetings and/or workshops under the auspices of the Ad Hoc Experts' Groups. Ministers also acknowledged the countries that had coordinated specific project activities under the Action Plans of the Ad Hoc Experts' Groups.

37. Finally, Ministers acknowledged with gratitude the host Government of Indonesia for the excellent arrangements that were made for the Conference and the people of Bali for their generous hospitality.

Bali, 30 April 2003